

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SIMON AND SIMON, PC, et al.,
Plaintiffs,
v.
ALIGN TECHNOLOGY, INC.,
Defendant.

Case No. 20-cv-03754-VC

Re: Dkt. No. 316

MISTY SNOW, et al.,
Plaintiffs,
v.
ALIGN TECHNOLOGY, INC.,
Defendant.

Case No. 21-cv-03269-VC

Re: Dkt. No. 389

ORDER GRANTING IN PART AND DENYING IN PART CLASS CERTIFICATION

The motion to certify a class of direct purchasers of scanners is denied, because the named plaintiffs did not purchase scanners during the class period. As discussed at the November 16 hearing, denial is without leave to file a renewed motion for class certification in this case on behalf of scanner purchasers. The motion to certify a class of direct purchasers of aligners is granted. The motion to certify the injunctive and damages classes of indirect purchasers of aligners is also granted. The Court intends to issue an explanatory opinion by December 1. For now, the parties should review the following revised class definitions and

inform the Court by November 21 if they believe the definitions contain any errors or wording problems:


Direct Purchasers Class. All persons or entities in the United States that purchased Invisalign Aligners directly from Defendant Align Technology, Inc. during the period beginning January 1, 2019 through March 31, 2023 (the “Class Period”). Excluded from the Class are: (1) Defendant, its subsidiaries, affiliate entities, and employees; and (2) all federal or state government entities or agencies.

Nationwide Injunctive Relief Class. All persons or entities in the United States that purchase, pay, and/or provide reimbursement for some or all of the purchase price for Invisalign aligners acquired for personal use, until such time as the anticompetitive conduct alleged herein has ceased (the “Class Period”). Excluded from the Class are: (1) Defendant, its subsidiaries, affiliate entities, and employees; and (2) all federal or state government entities or agencies.

State Indirect Purchaser Classes. All persons that purchased, paid and/or provided reimbursement for some or all of the purchase price for Invisalign Treatments that used any of the following types of Invisalign products—“Comprehensive”, “Moderate”, “GO”, “Teen”, “Assist Product Tracking”, “Lite”, “Express Ten”, “Multi-stage Comprehensive”, or “Assist” treatment—while residing in a relevant state, acquired for personal use during the period beginning July 1, 2018 until such time as the anticompetitive conduct alleged herein has ceased (the “Class Period”). The relevant states are: Arizona, California, Maryland, Massachusetts, Michigan, Minnesota, Nebraska, Nevada, North Carolina, and Oregon. Excluded from the Class are: (1) insurance providers; (2) Defendant, its subsidiaries, affiliate entities, and employees; and (3) all federal or state government entities or agencies.

IT IS SO ORDERED.

Dated: November 17, 2023



VINCE CHHABRIA
United States District Judge